

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JENNIFER PEYERK and  
JENEVIEVE PEYERK,

Plaintiffs,

Case No. 19-cv-11173  
Hon. Matthew F. Leitman

v.

WESTWAY GROUP  
CANADA, INC., *et al.*,

Defendants.

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**ORDER ON PENDING MOTIONS**

In this action, Plaintiffs Jennifer and Jenevieve Peyerk bring claims against Defendants Westway Group Canada, Inc. and Vitalie Barbulat arising out of an auto accident. (*See* Am. Compl., ECF No. 8.) The following motions are now before the court:

- Defendants’ Motion for Partial Summary Judgment (“Defendants’ PSJ Motion”) (*see* Mot., ECF No. 28);
- Plaintiffs’ Motion for Partial Summary Judgment (“Plaintiffs’ PSJ Motion”) (*see* Mot., ECF No. 42);
- Plaintiffs’ Motion to Strike Marcy Slabey-Klar from Testifying as an Expert Witness (the “Slabey-Klar Motion”) (*see* Mot., ECF No. 44);

- Plaintiffs’ Motion to Strike Sebastian Van Nooten from Testifying as an Expert Witness (the “Van Nooten Motion”) (*see* Mot., ECF No. 43); and
- Defendants’ Motion to Bar the Testimony of Plaintiffs’ Proposed Trucking Safety Expert Whitney Morgan (the “Morgan Motion”) (*see* Mot., ECF No. 29).

On May 4, 2021, the Court held a video hearing on all of these motions. For the reasons stated on the record, the motions are resolved as follows:

- Defendants’ PSJ Motion is **DENIED**.<sup>1</sup>
- Plaintiffs’ PSJ Motion is **GRANTED**.
- The Slabey-Klar motion is **GRANTED** in part and **DENIED** in part as follows. Unless and until the Court orders otherwise, Defendants shall not (1) mention Slabey-Klar or her opinions to the jury or (2) call her as a witness. At trial, Defendants may attempt to introduce evidence

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<sup>1</sup> Defendants’ PSJ Motion initially sought summary judgment on two different aspects of Plaintiffs’ claims. (*See* Defendants’ PSJ Mot., ECF No. 28.) Defendants first argued that the Court should grant summary judgment in their favor on Plaintiffs’ direct negligence claim against Westway. Second, Defendants argued the Court should grant summary judgment in their favor on Plaintiffs’ claim for medical costs and expenses that were already paid by Plaintiffs’ automobile insurer. On April 23, 2021, the Court entered a stipulated order dismissing Plaintiffs’ claim for medical bills. (*See* Order, ECF No. 52.) That order mooted the second portion of Defendants’ PSJ Motion. Accordingly, the Court’s denial of Defendants’ PSJ Motion applies only to the direct negligence claim against Westway.

(including, but not limited to, testimony from the professionals who performed the Independent Medical Examination of Jennifer Peyerck) sufficient to support a finding that Jennifer Peyerck could perform light or sedentary work. If Defendants succeed in admitting such evidence, the Court will permit Defendants to call Peyerck as a witness and to make arguments to the jury based upon her testimony.

- The Van Nooten motion is **DENIED**.
- Finally, the Morgan Motion is **DENIED**.

**IT IS SO ORDERED.**

s/Matthew F. Leitman  
MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

Dated: May 5, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 5, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda  
Case Manager  
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